

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RONALD SATISH EMRIT,

Plaintiff,

v.

WINTER MUSIC CONFERENCE, et al.,

Defendants.

Case No. 2:15-cv-00164-RCJ-PAL

ORDER AND REPORT OF FINDINGS
AND RECOMMENDATION

(Mtn in Limine – Dkt. #31)

This matter is before the court on Plaintiff Ronald Satish Emrit's Response (Dkt. #30) to the court's Order to Show Cause (Dkt. #29). Emrit also filed a Motion in Limine (Dkt. #31) requesting to have an attached document "entered into evidence." This matter was referred to the undersigned for findings and recommendation pursuant to 28 U.S.C. § 636(b)(1)(A) and LR IB 1-3. The court has considered the Response.

On March 10, 2015, the court entered an Order directing Emrit to show cause in writing for failing to perfect service of process as required by District Judge Beth Bloom's Orders (Dkt. ##12, 19, 25) entered in the Southern District of Florida before this case was transferred to this district. In the first two Orders entered by Judge Bloom, Emrit was directed to perfect service on Defendant Winter Music Conference or show cause why this action should not be dismissed. In the third Order, after Defendant Sonicbids, Inc., was added to the case, Judge Bloom directed Emrit to perfect service on Defendants or show cause why this action should not be dismissed. All of Judge Bloom's Orders warned Emrit that failure to file proof of service or show good cause would result in dismissal without prejudice and without further notice. Emrit did not comply with any of Judge Bloom's Orders.

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1 This court's March 10, 2015, Order to Show Cause directed Emrit to show cause why
2 this case should not be dismissed for his failure to perfect service on Defendants and multiple
3 failures to comply with Judge Bloom's Orders. Emrit's Response indicates that he is not a
4 "vexatious filer" or an "eggshell plaintiff." He did not comply with Judge Bloom's Orders
5 because he is indigent, disabled, and unemployed, and he cannot afford to serve the Defendants.
6 He requests permission for the U.S. Marshal's Service ("USMS") to serve the complaint.

7 The USMS is required to serve process where a plaintiff is proceeding in forma
8 pauperis. Plaintiff was denied leave to proceed in forma pauperis on October 30, 2014. In
9 addition, Judge Bloom already denied Plaintiff's Motion for the USMS to Serve the Complaint
10 (Dkt. #16) in an Order (Dkt. #18) entered January 6, 2015, and also denied Emrit's Motion to
11 Serve by Publication (Dkt. #23) in an Order (Dkt. #25) entered January 28, 2015. Plaintiff's
12 request is therefore denied as duplicative.

13 Making repeated requests for relief that was already denied is an abusive litigation tactic
14 that taxes the resources of the court. Rule 11 of the Federal Rules of Civil Procedure provides
15 that sanctions may be imposed on an unrepresented party who signs a paper that is either filed
16 with the court for an improper purpose or is frivolous. *See Nugget Hydroelectric, L.P. v. Pacific*
17 *Gas & Elec. Co.*, 981 F.2d 429, 439 (9th Cir. 1992, *cert. denied*, 508 U.S. 908 (1993) (citing
18 *Townsend v. Holman Consulting Corp.*, 929 F.3d 1358, 1362 (9th Cir. 1990) (en banc)). In
19 *Nugget*, the Ninth Circuit upheld the trial court's imposition of Rule 11 sanctions because a
20 party's second motion to compel largely duplicated the first.

21 In addition, Emrit's willful failure to comply with the court's Orders is an abusive
22 litigation practice that has interfered with the court's ability to hear this case, delayed litigation,
23 disrupted the court's timely management of its docket, wasted judicial resources, and threatened
24 the integrity of the court's orders and the orderly administration of justice. Sanctions less drastic
25 than dismissal are unavailable because Emrit has wilfully refused to comply with multiple court
26 Orders and failed to prosecute this case.

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1 Accordingly,

2 **IT IS ORDERED** that Plaintiff's Motion in Limine is DENIED AS PREMATURE.

3 **IT IS RECOMMENDED** that Plaintiff's Complaint be DISMISSED for failure to
4 perfect service of process, failure to prosecute, and failure to comply with multiple Orders of this
5 court.

6 Dated this 7th day of April, 2015.

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8 PEGGY A. LEEN
9 UNITED STATES MAGISTRATE JUDGE

10 **NOTICE**

11 These findings and recommendations are submitted to the United States district judge
12 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
13 after being served with these findings and recommendations, any party may file written
14 objections with the court. Pursuant to Local Rule of Practice (LR) IB 3-2(a), any party wishing
15 to object to the findings and recommendations of a magistrate judge shall file and serve *specific*
16 *written objections* together with points and authorities in support of those objections, within
17 fourteen days of the date of service of the findings and recommendations. The document should
18 be captioned "Objections to Magistrate Judge's Findings and Recommendations." The parties
19 are advised that failure to file objections within the specified time may waive the right to appeal
20 the district court's order. *See Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). The points and
21 authorities filed in support of the specific written objections are subject to the page limitations
22 found in LR 7-4.